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7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA
9 EASTERN DIVISION
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11 NORMAN HUMPHREYS,) Case No. EDCV 17-653-R(AJW)
12)
13) Petitioner,) MEMORANDUM AND ORDER
14) DISMISSING PETITION
15)
16) v.)
17)
18) SCOTT KERNAN,)
19)
20) Respondent.)
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17 In 1996, petitioner was convicted in the Riverside County Superior
18 Court of one count of second degree murder and one count of child
19 endangerment. He was sentenced to state prison for a term of fifteen
20 years to life. [Petition at 2].

21 On April 22, 1999, petitioner filed a petition for a writ of
22 habeas corpus in this Court challenging his 1996 conviction. Case No.
23 CV 99-4334-LGB(AJW). On August 28, 2000, judgment was entered denying
24 the petition on the merits.

25 Petitioner filed the current petition for a writ of habeas corpus
26 on April 6, 2017. The petition challenges the sentence imposed based
27 upon petitioner's 1996 conviction.
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1 "Before a second or successive application permitted by this
2 section is filed in the district court, the applicant shall move in the
3 appropriate court of appeals for an order authorizing the district
4 court to consider the application." 28 U.S.C. § 2244(b)(3)(A). Absent
5 authorization from the Court of Appeals, this Court lacks jurisdiction
6 over a successive petition. See Magwood v. Patterson, 561 U.S. 320,
7 330-331 (2010); Cooper v. Calderon, 274 F.3d 1270, 1274 (9th Cir.
8 2001), cert. denied, 538 U.S. 984 (2003).

9 To the extent that petitioner might contend that his petition
10 meets an exception to the bar on successive petitions, he must present
11 any such argument to the Ninth Circuit Court of Appeals. Because
12 petitioner has not obtained leave from the Court of Appeals, this
13 successive petition is dismissed for lack of jurisdiction.¹

14 **It is so ordered.**

15 Dated: April 18, 2017
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17 Manuel L. Real
18 United States District Judge
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25 ¹ Ninth Circuit Rule No. 22-3(a) provides that "[i]f a second or
26 successive petition or motion, or an application for authorization to
27 file such a petition or motion, is mistakenly submitted to the district
28 court, the district court shall refer it to the court of appeals."
Because the circumstances indicate that petitioner intentionally filed
this action in this Court, not that he did so mistakenly, Rule 22-3(a)
is inapplicable. Nevertheless, the Clerk is directed to mail petitioner
a copy of Ninth Circuit Form 12 so that petitioner may file an
application for leave to file a second or successive petition in the
Court of Appeals.